

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BARRY LOUIS LAMON,
Plaintiff,

v.

T. FOSS, et al.,
Defendants.

Case No. 20-05450 BLF

**ORDER GRANTING MOTION TO
STAY DISCOVERY AND
SUMMARY JUDGMENT
DEADLINE; GRANTING
PLAINTIFF EXTENSION OF TIME
TO FILE OPPOSITION**

(Docket No. 35)

Plaintiff, proceeding *pro se*, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against staff at Salinas Valley State Prison (“SVSP”). The Court found the amended complaint, Dkt. No. 22, stated cognizable claims and ordered the matter served on Defendants on June 22, 2021. Dkt. No. 23. Defendants were directed to file a motion for summary judgment or other dispositive motion within ninety-one days of the order. *Id.* at 9. On August 12, 2021, Defendants filed a motion to revoke Plaintiff’s *in forma pauperis* (“IFP”) status under 28 U.S.C. § 1915(g). Dkt. No. 32. Plaintiff has not filed a responsive pleading to that motion.

On September 15, 2021, Defendants filed a motion to stay discovery and the deadline for filing a summary judgment motion pending resolution of their motion to revoke Plaintiff’s IFP status. Dkt. No. 35.

A district court has broad discretion to stay discovery pending the disposition of a dispositive motion. *See Panola Land Buyers Ass'n v. Shuman*, 762 F.2d 1550, 1560 (11th Cir. 1985); *Scroggins v. Air Cargo, Inc.*, 534 F.2d 1124, 1133 (5th Cir. 1976); *Hovermale v. School Bd. of Hillsborough County*, 128 F.R.D. 287, 289 (M.D. Fla. 1989). But it is an abuse of that discretion to stay discovery if plaintiff is denied discovery that relates to the motion. *See Scroggins*, 534 F.2d at 1133. In addition, motions to stay discovery are not favored where resolution of the dispositive motion may not dispose of the entire case. *See Panola Land Buyers Assoc. v. Shuman*, 762 F.2d 1550, 1560 (11th Cir. 1985); *Hovermale*, 128 F.R.D. at 289-90.

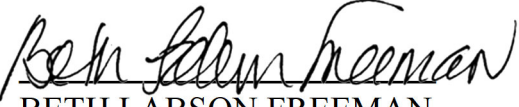
Here, the Court finds good cause to stay discovery with regards to the merits of the underlying claims pending resolution of Defendants' motion to revoke Plaintiff's IFP status. Success on the motion would result in Plaintiff having to pay the full filing fee in order to proceed with the action, such that a failure to do so would result in the dismissal without prejudice of this matter. It is also therefore appropriate to stay the deadline for filing a summary judgment motion. Accordingly, Defendants' motion to stay discovery and the summary judgment motion deadline is **GRANTED**.

In the interest of justice, Plaintiff is granted an extension of time to file opposition to Defendants' motion to revoke his IFP status. Dkt. No. 32. He shall file an opposition **no later than twenty-eight (28) days** from the date this order is filed. Defendants shall file a reply within **fourteen (14) days** from the date Plaintiff's opposition is filed.

This order terminates Docket No. 35.

IT IS SO ORDERED.

Dated: September 20, 2021


BETH LABSON FREEMAN
United States District Judge

Order Granting Stay; Granting EOT to file Opp.
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